

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

RECEIVED

In re Applications of )  
 )  
NEXTEL COMMUNICATIONS, INC., )  
Transferor, )  
 )  
and )  
 )  
SPRINT CORPORATION, )  
Transferee, )  
 )  
for Consent to the Transfer of Control of )  
Entities Holding Commission Licenses and )  
Authorizations Pursuant to Sections 214 and )  
310(d) of the Communications Act )

SEP 19 2005

Federal Communications Commission  
Office of Secretary

WT Docket No. 05-63

**OPPOSITION TO PETITION FOR RECONSIDERATION**

**I. INTRODUCTION**

Sprint Nextel Corporation ("Sprint Nextel") respectfully requests that the Federal Communications Commission (the "Commission") summarily deny NY3G Partnership's Petition for Reconsideration ("Petition") of the Commission's grant of the above-captioned application.<sup>1</sup>

Following the applicants' August 12, 2005 consummation of the approved merger, Sprint Nextel has moved forward to capitalize on the merger synergies that will enable it to offer innovative services to customers in a dynamic and competitive telecommunications marketplace. Just one petitioner, NY3G Partnership ("NY3G"), now

---

<sup>1</sup> *Applications of Nextel Communications, Inc. and Sprint Corporation; For Consent to Transfer Control of Licenses and Authorizations, Memorandum Opinion and Order, WT Docket No. 05-63, File Nos. 0002031766, et al. (rel. Aug. 3, 2005) ("Merger Order").*

seeks to disrupt this progress with a baseless challenge to the *Merger Order*.<sup>2</sup> In its petition, NY3G mischaracterizes the Commission's reasoning in the *Merger Order* and presents no new relevant facts or arguments to support its request for onerous merger conditions. By expeditiously denying this petition, the Commission will eliminate any remaining uncertainty and facilitate Sprint Nextel's rapid deployment of wireless broadband infrastructure and services in the United States.

## II. DISCUSSION

NY3G provides no legitimate reason for the Commission to reconsider the *Merger Order*. The Commission and courts have made clear that reconsideration is appropriate only where the petitioner either shows a material error or omission in the original order, or raises additional facts not known or existing until after the petitioner's last opportunity to present such matters.<sup>3</sup> As discussed below, NY3G does neither in this case.

---

<sup>2</sup> NY3G filed its Petition for Reconsideration on September 7, 2005, within the 30-day period for such petitions provided by Section 1.106(f) of the Commission's rules. 47 C.F.R. § 1.106(f). NY3G failed to comply, however, with rules requiring that such petitions "be served upon parties to the proceeding" "on or before the day on which the document is filed." 47 C.F.R. §§ 1.47(b), 1.106(f). While NY3G subsequently filed an "Erratum" and served Sprint Nextel with a copy of its petition on September 9, 2005 (*see* Letter from Jarrett Taubman, Counsel for NY3G, to Marlene H. Dortch, Secretary, FCC (Sep. 9, 2005)), the Commission can deny NY3G's petition on the basis of this violation of the Commission's rules.

<sup>3</sup> *See Infinity Broadcasting Operations, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 20156, ¶ 3 (2004); *WWIZ, Inc.*, 37 FCC 685, 686 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966); 47 C.F.R. § 1.106(c).

**A. NY3G's Discussion of Precedent is Immaterial to the Commission's Approval of the Combination of the Applicants' 2.5 GHz Spectrum**

In its petition, NY3G focuses largely on the *Merger Order*'s reference to two decade-old decisions affecting the 2.5 GHz band, claiming that the Commission's merger approval "was grounded in" and "relie[d] heavily" on two decisions from the 1995 order establishing Multichannel Multipoint Distribution Service ("MMDS") auctions.<sup>4</sup> This claim mischaracterizes the Commission's analysis. The *Merger Order*'s rejection of NY3G's proposed conditions was based on the Commission's review of competitive conditions in the mobile data services market, not on this MMDS precedent. Specifically, the Commission concluded that the combination of the applicants' 2.5 GHz spectrum will not lead to anti-competitive harm, based on the following findings:

- There is significant spectrum outside the 2.5 GHz band that is conducive to the provision of mobile data services or will become so in the foreseeable future.<sup>5</sup>
- The 2.5 GHz band is not intrinsically superior to other spectrum for the provision of wireless services (e.g., propagation characteristics). Rather, the 2.5 GHz band will be just one of many existing and potential inputs into the mobile data services market.<sup>6</sup>
- Sprint Nextel will have strong, nationwide competitors with powerful incentives to compete in all the potentially relevant product markets.<sup>7</sup>
- Local market concentration would not be increased by the merger of Sprint and Nextel, because the 2.5 GHz holdings of the applicants did not significantly overlap.<sup>8</sup>

---

<sup>4</sup> Petition at 1, 4 (referring to Commission citation of *Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service*, Report and Order, 10 FCC Rcd 9589, ¶¶ 37, 41 (1995) ("*MMDS Auction Order*").

<sup>5</sup> *Merger Order* ¶ 156.

<sup>6</sup> *Id.* ¶ 157.

<sup>7</sup> *Id.* ¶ 151.

- Given the significant size of Sprint's and Nextel's respective regional footprints at 2.5 GHz, there is no specific competitive harm to be identified that could be avoided by a rejection of the merger.<sup>9</sup>
- Rejection of the merger would not necessarily result in the emergence of two national providers, or two large providers that would more willingly negotiate with smaller providers than the single merged entity.<sup>10</sup>

The Commission did not reference the *MMDS Auction Order* until after reviewing all of these factors and concluding that the merger would have no anti-competitive effects in the mobile data services market. The Commission's subsequent allusion to its 1995 decisions was effectively "*dicta*," intended only to show that the *Merger Order* was consistent with past policy and not meant to serve as a primary basis for this merger approval.<sup>11</sup> Accordingly, NY3G's discussion of the *MMDS Auction Order* is immaterial to the Commission's merger grant and therefore does not provide any basis for reconsideration of the *Merger Order*.<sup>12</sup>

**B. The *MMDS Recon Order* Actually Strengthens the Case Against NY3G's Proposed Conditions**

NY3G accurately points out that the Commission's discussion of the *MMDS Auction Order* did not account for a rule change made on reconsideration. Specifically, following the *MMDS Auction Order*, the Commission eliminated a right of first refusal with regard to the leasing of Educational Broadband Service ("EBS") that the

---

<sup>8</sup> *Merger Order* ¶ 158.

<sup>9</sup> *Id.* ¶ 159.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* ¶ 160.

<sup>12</sup> See *Saga Communications of New England, Inc.*, Order on Reconsideration, 20 FCC Rcd 4164, ¶ 3 n.10 (2005) (citing *WWIZ, Inc.*, 37 FCC 685, 686 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966)).

Commission had granted to Basic Trading Area (“BTA”) auction winners within their BTA.<sup>13</sup> Contrary to NY3G’s claims, however, this correction of the record does not support a grant of its petition.

From NY3G’s perspective, the Commission’s failure to account for the *MMDS Recon Order* can only be considered a harmless error. As described above, the *Merger Order*’s rejection of NY3G’s proposed conditions was based on the Commission’s competitive analysis for the mobile data services market, not on policy judgments made in the 1995 *MMDS Auction Order*. Accordingly, the fact that one of those judgments was reversed in the *MMDS Recon Order* is immaterial, and does not represent a legitimate basis for reconsideration of the Commission’s merger approval.<sup>14</sup>

If anything, however, the Commission’s decision in the *MMDS Recon Order* provides further support for the *Merger Order*’s competitive analysis and strengthens the case against NY3G’s proposed conditions. Without a right of first refusal, it is even more difficult for BTA licensees at 2.5 GHz to accumulate the vast spectrum rights in this band and elsewhere that would be necessary to achieve a dominant position in the mobile data services marketplace. *Thus, by highlighting this policy reversal, NY3G further weakens the argument in its petition that Sprint Nextel’s 2.5 GHz assets pose a competitive threat.*

Finally, the Commission’s action in the *MMDS Recon Order* in no way undercuts the Commission’s point in the *Merger Order* that its “long-standing regulatory policies regarding the 2.5 GHz band” are meant to “encourage[e] [the] consolidation of spectrum

---

<sup>13</sup> *Amendment of Parts 21 and 74 of the Commission’s Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service*, Memorandum and Order on Reconsideration, 10 FCC Rcd 13821, ¶ 16 (1995) (“*MMDS Recon Order*”).

<sup>14</sup> *See notes 3, 12 supra.*

in this band, due to its historical underutilization.”<sup>15</sup> NY3G ignores the fact that the Commission eliminated this right of first refusal not because of any concern with spectrum consolidation, but because EBS licensees required certainty that they could “enter into contracts with parties who they feel are financially secure and able to provide technical support . . .”<sup>16</sup> Thus, contrary to NY3G’s claim, the *Merger Order*’s approval of the Sprint Nextel merger and rejection of NY3G’s proposed merger conditions are consistent with the Commission’s long-time regulatory approach in this band.

**C. NY3G Repeats Arguments Made Prior to the *Merger Order* and Offers Nothing New on Issues Material to Its Proposed Conditions**

Aside from its discussion of MMDS precedent, NY3G can only repeat broad arguments made in pleadings prior to the *Merger Order*. NY3G fails to offer anything new on the issues that are material to its proposed merger conditions. It is well established that the Commission will deny any petition that merely repeats arguments previously considered and rejected, and the Commission’s approach should be no different in this merger proceeding.<sup>17</sup>

Fundamentally, NY3G presents no new evidence or arguments to contradict the Commission’s conclusion that the Sprint Nextel merger will not harm competition in the mobile data services market. NY3G also fails to refute the Commission’s findings that NY3G’s proposed merger conditions are premature, “given the nascency of broadband

---

<sup>15</sup> *Merger Order* ¶ 160.

<sup>16</sup> *Amendment of Parts 21 and 74 of the Commission’s Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service*, Memorandum and Order on Reconsideration, 10 FCC Rcd 13821, ¶ 16 (1995).

<sup>17</sup> *See, e.g., Applications of Bennett Gilbert Gaines et al.*, Memorandum Opinion and Order, 8 FCC Rcd 3986, ¶ 3 (Rev. Bd. 1993).

uses and the on-going transition process in the 2.5 GHz band.”<sup>18</sup> Significantly, as the *Merger Order* pointed out, the Commission raised the issue of spectrum caps and roaming requirements in its Broadband Radio Service (“BRS”)/EBS rulemaking, and, after notice and comment, the Commission determined that such rules were not in the public interest.<sup>19</sup> NY3G (and other earlier proponents of merger conditions) did not address the need for such requirements in that proceeding, despite the fact that Sprint and Nextel already held regional footprints at that time. NY3G makes no effort to defend this omission.

### III. CONCLUSION

Sprint Nextel urges the Commission to deny NY3G’s Petition expeditiously. NY3G’s Petition mischaracterizes the Commission’s analysis in the *Merger Order*, presents no new relevant facts or arguments, and provides no basis for reconsideration of

---

<sup>18</sup> *Merger Order* ¶ 162.

<sup>19</sup> *Id.* ¶ 162. In addition, NY3G fails to address in any way the Commission’s finding that NY3G’s proposed divestiture conditions and 2.5 GHz spectrum cap could require the termination of Sprint Nextel leases with EBS licensees, which would disrupt EBS operations and harm EBS licensees and the communities they serve. *Id.* ¶ 161.

the Commission's merger grant. By summarily denying this meritless challenge, the Commission will remove any remaining uncertainty and facilitate Sprint Nextel's rapid deployment of wireless broadband infrastructure and services in the United States.

Respectfully submitted,

**SPRINT NEXTEL CORPORATION**

/s/ Robert S. Foosaner

Robert S. Foosaner

Senior Vice President and Chief Regulatory Officer

Lawrence R. Krevor

Vice President – Spectrum

Trey Hanbury

Senior Counsel – Spectrum

2001 Edmund Halley Drive

Reston, VA 20191

(703) 433-4141

Regina M. Keeney

Stephen J. Berman

Lawler, Metzger, Milkman & Keeney, LLC

2001 K Street, NW, Suite 802

Washington, DC 20006

(202) 777-7700

Counsel for Sprint Nextel Corporation

September 19, 2005



## CERTIFICATE OF SERVICE

I, Ruth E. Holder, do hereby certify that on this 19th day of September, 2005, copies of the foregoing Opposition to Petition for Reconsideration of NY3G Partnership were delivered by first-class, postage-prepaid mail, unless otherwise indicated, to the following parties:

Best Copying and Printing, Inc.\*  
Federal Communications Commission,  
Room CY-B402  
445 12th Street, S.W.  
Washington, DC 20554

Louis Peraertz\*  
Spectrum and Competition Policy Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Sara Mechanic\*  
Spectrum and Competition Policy Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Erin McGrath\*  
Mobility Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Dennis Johnson\*  
Broadband Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Jeff Tobias\*  
Public Safety and Critical Infrastructure  
Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

David Krech\*  
Policy Division  
International Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Pamela Megna\*  
Competition Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

\*Delivered by electronic mail

Jim Bird\*  
Office of General Counsel  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Jonathan Levy\*  
Office of Strategic Planning and Policy  
Analysis  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Wayne McKee\*  
Engineering Division  
Media Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Charles Iseman\*  
Experimental Licensing Branch  
Office of Engineering and Technology  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

JoAnn Lucanik\*  
Satellite Division  
International Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Debbie Goldman  
George Kohl  
501 Third St., N.W.  
Washington, D.C. 20001  
*Counsel for Communications Workers of  
America*

Christine M. Gill  
David D. Rines  
McDermott Will & Emery LLP  
600 Thirteenth Street, N.W.  
Washington, D.C. 20005-3096  
*Counsel for SouthernLINC Wireless*

Jack Richards  
Kevin G. Rupy  
Keller and Heckman LLP  
1001 G Street, N.W.  
Washington, D.C. 20001  
*Counsel for National Rural  
Telecommunications Cooperative*

Paul C. Besozzi  
Nicholas W. Allard  
Stephen Diaz Gavin  
Patton Boggs LLP  
2550 M Street, N.W.  
Washington, D.C. 20037  
*Counsel for Preferred Communications  
Systems, Inc.*

David L. Nace  
Pamela L. Gist  
Lukas, Nace, Gutierrez & Sachs, Chartered  
1650 Tysons Boulevard  
Suite 1500  
McLean, VA 22102  
*Counsel for Rural Cellular Association and  
U.S. Unwired Inc.*

\*Delivered by electronic mail

George Y. Wheeler  
Peter M. Connolly  
Holland & Knight LLP  
2099 Pennsylvania Avenue, N.W.  
Suite 100  
Washington, D.C. 20006  
*Counsel for United States Cellular  
Corporation and Telephone and Data  
Systems, Inc.*

Mark Cooper  
Director of Research  
Consumer Federation of America  
Consumers Union  
1424 16<sup>th</sup> Street, N.W.  
Washington, D.C. 20036  
*Counsel for Consumer Federation of  
America*

John J. Zoltner  
Ryan Turner  
Community Technology Centers' Network  
1436 U Street, N.W.  
Suite 104  
Washington, D.C. 20009  
*Counsel for Community Technology  
Centers' Network*

Seema M. Singh, Esq.  
Ratepayer Advocate  
Christopher J. White, Esq.  
Deputy Ratepayer Advocate  
State of New Jersey  
Division of The Ratepayer Advocate  
31 Clinton Street, 11<sup>th</sup> Floor  
P. O. Box 46005  
Newark, NJ 07101  
*Counsel for the New Jersey Division of the  
Ratepayer Advocate*

Gene Kimmelman  
Senior Director of Public Policy  
Consumers Union  
1666 Connecticut Ave., N.W.  
Suite 310  
Washington, D.C. 20009  
*Counsel for Consumers Union*

Bruce D. Jacobs  
Tony Lin  
Jarrett Taubman  
Pillsbury Winthrop Shaw Pittman LLP  
2300 N St., N.W.  
Washington, D.C. 20037-1128  
*Counsel for NY3G Partnership*

Julian L. Shepard  
Mark Blacknell  
Williams Mullen, A Professional  
Corporation  
1666 K Street, N.W.  
Suite 1200  
Washington, D.C. 20006-1200  
*Counsel for Safety and Frequency Equity  
Competition Coalition*

James T. Martin  
Executive Director  
United South and Eastern Tribes, Inc.  
711 Stewarts Ferry Pike  
Suite 100  
Nashville, TN 37214  
*Counsel for United States and Eastern  
Tribes, Inc.*

Chuck Canterbury  
National President  
Grand Lodge Fraternal Order of Police  
309 Massachusetts Ave., N.E.  
Washington, D.C. 20002  
*Counsel for Grand Lodge Fraternal Order  
of Police*

Marc H. Morial  
President and CEO  
National Urban League  
120 Wall Street  
New York, NY 10005  
*Counsel for National Urban League*

Larry E. Sevier  
President  
Nex-Tech Wireless, LLC  
2418 Vine St.  
Hays, KS 67601  
*Counsel for Nex-Tech Wireless, LLC*

Sheri A. Farinha, CEO  
NorCal Center on Deafness  
4708 Roseville Road  
Suite 111  
North Highlands, CA 95660  
*Counsel for NorCal Center on Deafness*

Gregory Rohde  
E-Copernicus  
317 Massachusetts Ave. NE, Suite 200  
Washington, DC 20002

Nancy J. Bloch  
National Association of the Deaf  
814 Thayer Ave.  
Silver Spring, MD 20910-2078

Richard Ruhl  
General Manager  
Pioneer Telephone Cooperative, Inc.  
P. O. Box 539  
108 East Robberts Avenue  
Kingfisher, OK 73750  
*Counsel for Pioneer Telephone  
Cooperative, Inc.*

Harry C. Alford  
President CEO  
National Black Chamber of Commerce  
1350 Connecticut Avenue, N.W.  
Suite 405  
Washington, D.C. 20036  
*Counsel for National Black Chamber of  
Commerce*

Michael K. Kurtis  
Bennet & Bennet, PLLC  
10 G Street, N.E., 7<sup>th</sup> Floor  
Washington, D.C. 20002  
*Counsel for Richard W. Duncan d/b/a  
Anderson Communications*

Craig Mock  
General Manager  
United Telephone and Communications  
Associations, Inc.  
PO Box 117  
Dodge City, KS 67801  
*Counsel for United Telephone and  
Communications Associations, Inc.*  
Jason B. Rogers  
Belmont University  
1900 Belmont Blvd.  
Nashville, TN 37212-3757

Dr. Thomas Cleary  
Manatee Community College  
5840 26th St. W  
Bradenton, FL 34207

Judy S. MacDonald  
Poudre School District  
2413 La Porte Ave.  
Fort Collins, CO 80521

Edward Lavergne  
Fish & Richardson  
324 Middlefield Road  
Menlo Park, CA 94025  
*Counsel for Ronald J. Loiacono*

The ITFS/2.5 GHz Mobile Wireless  
Engineering & Development Alliance, Inc.  
Box 6060  
Boulder, CO 80306

Manual Mirabal  
National Puerto Rican Coalition Inc.  
1901 L Street NW, Suite 802  
Washington, DC 20036

John T. Scott  
Verizon Wireless  
1300 I St. NW, Suite 400 West  
Washington, DC 20005

Charles J. Ha  
HellerEhrmann  
c/o Donald J. Manning  
4500 Carillon Point  
Kirkland, WA 98033  
*Counsel for Nextel Partners*

Digital and Wireless Television LLC, *et al.*  
Dee S. Osborne  
600 Travis, Suite 6800  
Houston, TX 77002

Stephen R. Seitz  
National Emergency Number Association  
4350 N. Fairfax Dr., Suite 750  
Arlington, VA 22203

Randall C. Doerksen  
Friends University  
2100 W. University St.  
Wichita, KS 67213

Harold Feld  
Media Access Project  
1625 K Street NW, Suite 100  
Washington, DC 20006

David G. Richards  
Cingular Wireless, LLC  
5565 Glenridge Connector, 17th Floor  
Atlanta, GA 30342

Nadja S. Sodos-Wallace  
Clearwire Corporation  
2000 Pennsylvania Ave. NW, Suite 4400  
Washington, DC 20006

Glenn S. Rabin  
AllTel Corporation  
601 Pennsylvania Ave. NW, Suite 720  
Washington, DC 20004

Cheryl A. Tritt  
Doane F. Kiechel  
Morrison & Foerster LLP  
2000 Pennsylvania Ave. NW, Suite 5500  
Washington, DC 20006  
*Counsel for T-Mobile USA, Inc. and  
Western Wireless Corporation*

American Telecasting of Denver  
401 9th Street NW, Suite 400  
Washington, DC 20004

Claude L. Stout  
Telecommunications for the Deaf  
8630 Fenton Street #604  
Silver Spring, MD 20910-3803

Ben Soukrup  
Communication Service for the Deaf  
102 N. Krohn Place  
Sioux Falls, SD 57103

Camille Caffarelli  
Horizons for the Blind  
2 North Williams Street  
Crystal Lake, IL 60014

Billy J. Parrot  
Private Networks, Inc.  
276 Fifth Ave., Suite 301  
New York, NY 10001

Ian K. Loo  
Intel Corporation  
1634 I Street NW, Suite 300  
Washington, DC 20006

John Ogren  
SpeedNet, LLC  
843 Stag Ridge Road  
Rochester Hills, MI 48309

William T. Reed  
KCPT – Public Television 19  
125 E. 31st Street  
Kansas City, MO 64108-3216

Sharon E. Hilliard  
Via/Net Companies  
1246 Stratford Court  
Del Mar, CA 92014-2326

Armando Ojeda  
United States Hispanic Chamber of  
Commerce  
2175 K Street NW, Suite 100  
Washington, DC 20037

Robert Peck  
Greater Washington Board of Trade  
1725 I Street NW, Suite 200  
Washington, DC 20006

Terry Portis  
Self Help for Hard of Hearing People  
7910 Woodmont Ave., Suite 1200  
Bethesda, MD 20814

Kemp R. Harshman  
Clarendon Foundation  
4201 31st Street South, Suite 826  
Arlington, VA 22206-2187

Randall L. Rutta  
Easter Seals  
700 13th Street, Suite 200  
Washington, DC 20005

Joe L. Chitwood  
University of Arizona  
KUAT Communications Group  
Harvill Bldg., Box 4  
Tucson, AZ 85721

Melanie Brunson  
American Council of the Blind  
1155 15th Street NW, Suite 1004  
Washington, DC 20005

Kathleen M. Moore  
University of South Florida  
Educational Outreach, SVC 1072  
4202 East Fowler Ave.  
Tampa, FL 33620-6100

Bobbie Kilberg  
Northern Virginia Technology Council  
2214 Rock Hill Road, Suite 300  
Herndon, VA 20170

/s/ Ruth E. Holder  
Ruth E. Holder